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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

*pm*

DEPUTY

1 AMAR L. THAKUR, CAL. BAR NO. 194025  
2 JON E. MAKI, CAL. BAR NO. 199958  
3 CRYSTINA COATS, CAL BAR NO. 234301  
4 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
5 A Limited Liability Partnership  
6 Including Professional Corporations  
7 12275 El Camino Real, Suite 200  
8 San Diego, California 92130  
9 Telephone: 858-720-8900  
10 Facsimile: 858-509-3691  
11 Email: [athakur@sheppardmullin.com](mailto:athakur@sheppardmullin.com)  
12 [jmaki@sheppardmullin.com](mailto:jmaki@sheppardmullin.com)  
13 [ccoats@sheppardmullin.com](mailto:ccoats@sheppardmullin.com)

14 Attorneys for Plaintiffs  
15 Bridgepoint Education, Inc.

16 UNITED STATES DISTRICT COURT  
17 SOUTHERN DISTRICT OF CALIFORNIA

18 BRIDGEPOINT EDUCATION, INC.,

19 Plaintiff,

20 v.

21 PROFESSIONAL CAREER  
22 DEVELOPMENT INSTITUTE, LLC, and  
23 DOES 1-10, inclusive,

24 Defendants.

25 CASE NO.

26 COMPLAINT FOR DAMAGES AND  
27 INJUNCTIVE RELIEF FOR:

28 (1) FEDERAL TRADEMARK  
INFRINGEMENT [15 U.S.C. § 1114(1)];

(2) FEDERAL UNFAIR COMPETITION  
AND FALSE DESIGNATION OF ORIGIN  
[15 U.S.C. § 1125]; and

(3) UNFAIR COMPETITION AND  
FALSE DESIGNATION OF ORIGIN  
[California Business & Professions Code §§  
17200 and 17500].

REQUEST FOR JURY TRIAL.

ORIGINAL

CR

## I.

**INTRODUCTION**

1  
2  
3  
4           1.     This Complaint seeks monetary damages and injunctive relief for the  
5 infringement of Bridgepoint Education Inc.'s ("Plaintiff" or "Bridgepoint") federally  
6 registered trademark, "Ashford University," by Professional Career Development  
7 Institute, LLC ("Defendant" or "PCDI") through its unfairly competitive use of the  
8 confusingly similar name "Ashworth University." The purpose of this Complaint is to  
9 prevent Defendant from continuing to infringe and wrongfully profit from its use of its  
10 confusingly similar name in connection with the sale of related goods and services, as  
11 well as Defendant's intentional and unfairly competitive association between itself and  
12 Plaintiff.

## II.

**JURISDICTION AND VENUE**

13  
14  
15  
16  
17           2.     This Southern District of California has subject matter jurisdiction  
18 over this matter pursuant to: (1) 28 U.S.C. § 1331, as this action arises out of the laws of  
19 the United States of America; (2) 15 U.S.C. § 1121, as this action involves claims under  
20 the Lanham Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.*; and (3) 28 U.S.C.  
21 § 1338(a) and (b), as this action arises in part under an Act of Congress relating to  
22 trademarks and involves a substantial and related claim of unfair competition under  
23 federal law. This Court has supplemental jurisdiction over the third claim pursuant to  
24 28 U.S.C. § 1367 because they are so related to the first and second claims for relief that  
25 they form part of the same case or controversy under Article III of the United States  
26 Constitution. The matter in controversy exceeds, exclusive of interest and costs, the sum  
27 of seventy-five thousand dollars.  
28

3. This Court has personal jurisdiction over Defendant in this action and venue is proper in this judicial district because, as alleged below: (a) Defendant engages in substantial business within this forum amounting to sufficient minimum contacts, including, but not limited to, offering its offending goods and services in California and in this judicial district; (b) the harm caused to Plaintiff by the acts and omissions of Defendant were targeted at Plaintiff and designed to impact Plaintiff; and (c) a substantial part of the acts or omissions giving rise to the asserted claims occurred or had effects in this judicial district. Defendant has infringed Plaintiff's trademark and unfairly competed with Plaintiff via advertisements, containing the confusingly similar name "Ashworth University," on television and the Internet as well as through Defendant's web sites, including [www.ashworthuniversity.tv](http://www.ashworthuniversity.tv), [www.ashworthuniversity.edu](http://www.ashworthuniversity.edu), [www.ashworthuniversity.com](http://www.ashworthuniversity.com), [www.ashworthuniversity.net](http://www.ashworthuniversity.net), [www.ashworthuniversity.us](http://www.ashworthuniversity.us), [www.ashworthuniversity.info](http://www.ashworthuniversity.info), and [www.ashworthuniversity.biz](http://www.ashworthuniversity.biz), and otherwise, in this judicial district and, on information and belief, in every jurisdiction of the United States.

### III.

## PARTY ALLEGATIONS

4. Plaintiff Bridgepoint is a corporation duly organized and existing under the laws of the State of Delaware, and has its principal place of business at 13500 Evening Creek Drive, Suite 600, San Diego, CA 92128.

5. On information and belief, Defendant PCDI is a limited liability corporation duly organized and existing under the laws of the State of Georgia, and has its principal place of business located at 430 Technology Parkway, Norcross, Georgia 30092.

6. Plaintiff does not know the true names and capacities, whether individuals, corporations, partnerships, joint ventures, or otherwise of defendant DOES 1-10, inclusive. Plaintiff is informed and believes, and on that basis alleges, that each fictitious defendant was in some way responsible for, participated in, or contributed to the matters and things of which Plaintiff complains, and in some fashion, has legal responsibility. When the exact nature and identity of such fictitious defendants or Defendant's responsibility for participation and contribution to the matters and things alleged in this Complaint is ascertained, Plaintiff will seek leave to amend this Complaint.

#### IV.

## GENERAL ALLEGATIONS

7. Plaintiff is the owner of the federally registered trademark ASHFORD UNIVERSITY having federal trademark Registration No. 3,220,625. A true and correct copy of said registration is attached as Exhibit 1 and incorporated by reference.

8. Plaintiff and its wholly owned subsidiary Ashford University, LLC ("Ashford University"), a limited liability corporation duly organized and existing under the laws of the State of Iowa, have been and are now extensively engaged in the business of marketing in interstate commerce and providing a wide variety of educational goods and services, and since 2005 has marketed such educational goods and services under the trademark ASHFORD UNIVERSITY. Plaintiff uses the registration symbol ® under 15 U.S.C. §1111 on its goods and in advertising associated with its trademark.

9. Ashford University, which was founded in 1918, maintains a physical university campus in Clinton, Iowa where students receive affordable, innovative, high-quality learning opportunities and degree programs in subjects such as

1 business administration, health care administration, psychology, organizational  
2 management, criminal justice, social science, education, accounting, computer graphics  
3 design, marketing management, visual arts, computer science and mathematics, and  
4 biology.

5  
6 10. Ashford University also offers distance learning programs for  
7 individuals to receive associate's, bachelor's and master's degrees by correspondence and  
8 online through its web site at www.ashford.edu without physically attending classes on  
9 campus. Students can earn these degrees in subjects such as business administration,  
10 health care administration, psychology, organizational management, criminal justice,  
11 social science and education.

12  
13 11. Plaintiff has spent significant time and effort and substantial sums of  
14 money widely advertising and extensively offering educational and distance learning  
15 programs under its registered ASHFORD UNIVERSITY mark to potential distance and  
16 online learners throughout the United States (including the Southern District of  
17 California) and abroad, and the trademark ASHFORD UNIVERSITY has become,  
18 through widespread and favorable public acceptance and recognition, an asset of  
19 substantial value as a symbol of Plaintiff, its quality goods and services and its good will,  
20 as evidenced in part by the significant revenues derived from these goods and services.  
21 Plaintiff's extensive marketing plans include widely offering its distance learning goods  
22 and services in connection with its mark online (e.g., through its web site located at  
23 www.ashford.edu) and through various other media.

24  
25 12. Defendant offers distance learning programs under the name  
26 Ashworth University, both by correspondence and online, for students to receive  
27 associate's, bachelor's and master's degrees in subjects, including business management,  
28 criminal justice, education, health care management and psychology. Defendant

1 represents itself as a provider of associate's, bachelor's and master's degree programs and  
2 high school diploma programs to distance and online learners in the United States and  
3 more than 100 countries worldwide.

4  
5 13. Defendant offers its distance learning-related goods and services in  
6 interstate commerce, including within and without California and including this judicial  
7 district, through television advertisements, Internet banner advertisements, and web sites,  
8 including those with domain names that are confusingly similar to Plaintiff's ASHFORD  
9 UNIVERSITY trademark, such domain names including www.ashworthuniversity.tv,  
10 www.ashworthuniversity.edu, www.ashworthuniversity.com,  
11 www.ashworthuniversity.net, www.ashworthuniversity.us, www.ashworthuniversity.info,  
12 and www.ashworthuniversity.biz. On information and belief, Defendant does not have a  
13 federally registered trademark for "Ashworth University."

14  
15 14. Defendant's use in commerce of the Ashworth University name and  
16 domain names constitute infringement of Plaintiff's registered trademark, ASHFORD  
17 UNIVERSITY, has caused actual confusion, deception and/or mistake, and is likely to  
18 continue to cause confusion, deception, and/or mistake. Defendant's use of the name  
19 Ashworth University is immediately reminiscent of and strikingly similar to Plaintiff's  
20 registered trademark ASHFORD UNIVERSITY. Substantial similarity exists in sight and  
21 sound between Defendant's disputed name and domain names and Plaintiff's registered  
22 mark. Indeed, each begins with "Ash," contains "or" in text and sound, and utilizes the  
23 second word "University." The small differences between the letters in Plaintiff's mark  
24 and those in Defendant's disputed name and domain names do not significantly change the  
25 sound of the university names when pronounced. Defendant's disputed name and domain  
26 names are thus confusingly similar to Plaintiff's trademark and constitute direct  
27 infringement.  
28

1           15. The confusion is enhanced by the fact that, not only is Defendant's  
2 name strikingly similar in an aesthetic sense to Plaintiff's registered trademark, but both  
3 Plaintiff's and Defendant's names are being used to brand and market goods and services  
4 in the exact area in which Plaintiff's ASHFORD UNIVERSITY trademark is registered:  
5 "educational services, namely, providing distance learning instruction, curriculum and  
6 courses at the college and graduate levels."

7  
8           16. Furthermore, Plaintiff's and Defendant's goods and services are  
9 offered throughout the United States. Both Plaintiff and Defendant use the Internet and  
10 various other similar media channels to market and promote their goods and services to  
11 the same potential customers.

12  
13           17. Defendant's national advertising campaign reflects an expansion into  
14 the national market at the same time that Plaintiff has been marketing its goods and  
15 services in the national market.

16  
17           18. On information and belief, Defendant's use of the infringing name is  
18 an attempt by Defendants to associate and connect its goods and services with the  
19 renowned, high quality distance learning goods and services designed and offered by  
20 Plaintiff. On information and belief, Defendants created unlawful and unfair connections  
21 to Plaintiff's established, successful, and popular distance learning goods and services in  
22 order to persuade potential customers to obtain Defendant's distance learning goods and  
23 services instead of Plaintiff's. Potential students have indeed actually confused  
24 Defendant's distance learning goods and services with Plaintiff's. As such, by infringing  
25 Plaintiff's registered trademark, Defendant creates an unfairly competitive association  
26 with Plaintiff and trades upon Plaintiff's business goodwill in order to sell Defendant's  
27 own goods and services by falsely designating their origin.

28

1           19. Defendant has notice of Plaintiff's trademark by virtue of its  
2 publication and registration on the Principal Registry and Plaintiff's trademark marking  
3 pursuant to 35 U.S.C. §1111.  
4

5           20. On information and belief, Defendant has earned and continues to  
6 earn substantial revenues and profits from the distance learning services using the  
7 infringing name and domain names that are confusingly similar to Plaintiff's federally-  
8 registered trademark. Plaintiff has been damaged by the conduct of Defendant in an  
9 amount not yet known, and is entitled to restitution in the form of all revenues and profits  
10 generated by Defendant's sales of distance learning goods and services using a  
11 confusingly similar name and domain name. Plaintiff will continue to be damaged until  
12 Defendant's use of its infringing name and domain names is enjoined.  
13

14                           **FIRST CLAIM FOR RELIEF**

15           **[Federal Trademark Infringement Against Defendants (15 U.S.C. § 1114 et seq.)]**  
16

17           21. Plaintiff realleges and incorporates herein by reference the allegations  
18 contained in Paragraphs 1 through 20 of this Complaint, as set forth above.  
19

20           22. Defendant's conduct constitutes trademark infringement under 15  
21 U.S.C. § 1114 *et seq.* Defendant's use of its confusingly similar name and domain names  
22 in interstate commerce constitutes trademark infringement, and engenders a mistaken  
23 belief by the consuming public that Defendant's goods and services are offered,  
24 sponsored, authorized, licensed by, or otherwise connected with Plaintiff or come from  
25 the same source as Plaintiff's goods and services, or are of the same quality as that assured  
26 by Plaintiff's trademark.  
27  
28

1           23. Defendant's commercial activities using its confusingly similar name  
2 and domain names in connection with the advertising and sale of its distance learning-  
3 related goods and services through the Internet and other media similar to Plaintiff have,  
4 on information and belief, caused actual confusion and are likely to continue causing  
5 confusion, mistake, and/or deception, and are likely to cause the public to believe that  
6 Plaintiff has produced, sponsored, authorized, licensed, or is otherwise connected or  
7 affiliated with Defendant's commercial and business activities, all to the detriment and  
8 damage of Plaintiff.

9  
10           24. Plaintiff is informed and believes, and on that basis alleges, that  
11 Defendant has willfully committed these acts of infringement to the injury and detriment  
12 of Plaintiff.

13  
14           25. On information and belief, Defendant has derived substantial financial  
15 benefit from its unlawful and infringing conduct with respect to Plaintiff's registered  
16 trademark. As a direct and proximate result of Defendant's unlawful acts as set forth  
17 above, including the unauthorized use of a name and domain names confusingly similar to  
18 Plaintiff's ASHFORD UNIVERSITY trademark, Plaintiff has suffered and will continue  
19 to suffer injury to its business, goodwill, and property. Plaintiff is entitled to recover from  
20 Defendant the damages it has sustained and will sustain as a result of Defendant's  
21 wrongful conduct as alleged herein. Plaintiff is further entitled to recover from Defendant  
22 the gains, profits and advantages obtained as a result of the wrongful conduct alleged  
23 herein. Plaintiff at present is unable to ascertain the full extent of its damages, or the  
24 gains, profits, and advantages that Defendant has obtained by reason of the wrongful  
25 conduct described herein.

26  
27           26. Plaintiff has no adequate remedy at law to compel Defendant to cease  
28 their wrongful acts. Unless Defendant is permanently enjoined from committing these

1 unlawful acts as set forth above, including the unauthorized use of a name and domain  
2 names in commerce that are confusingly similar to Plaintiff's ASHFORD UNIVERSITY  
3 trademark, Plaintiff will continue to suffer irreparable harm. Plaintiff is entitled, pursuant  
4 to 15 U.S.C. § 1116, to an injunction restraining Defendant, its officers, agents and  
5 employees, and all persons acting in concert with Defendant, from engaging in any further  
6 such acts of infringement in violation of the Lanham Act.

7  
8 **SECOND CLAIM FOR RELIEF**

9 **[Unfair Competition And False Designation Of Origin (15 U.S.C. §1125)]**

10  
11 27. Plaintiff realleges and incorporates herein by reference the  
12 allegations contained in Paragraphs 1 through 26 of this Complaint, as set forth above.

13  
14 28. Defendant's conduct constitutes federal unfair competition and false  
15 designation of origin under 15 U.S.C. § 1125.

16  
17 29. Defendant's unauthorized marketing and distribution of distance  
18 learning goods and services under the name Ashworth University and in connection with  
19 domain names, including www.ashworthuniversity.tv, www.ashworthuniversity.edu,  
20 www.ashworthuniversity.com, www.ashworthuniversity.net, www.ashworthuniversity.us,  
21 www.ashworthuniversity.info, and www.ashworthuniversity.biz, which infringe and/or  
22 are confusingly similar to Plaintiff's Ashford University trademark has and/or is likely to  
23 cause confusion, mistake, and/or deception as to an affiliation, connection, or association  
24 of Defendant's goods and services with Plaintiff's and their associated goodwill or as to  
25 the origin, sponsorship, or approval of Defendant's goods, services, or commercial  
26 activities by Plaintiff in violation of 15 U.S.C. § 1125.

1           30. Defendant's use of its infringing name and domain names creates a  
2 false and confusing connection between its distance learning-related goods, services and  
3 web site to the premium quality distance learning-related goods, services and web site  
4 provided by Plaintiff under its registered trademark. Such confusion as to the origin of  
5 goods and services is likely to continue unless enjoined and, on information and belief,  
6 has caused actual confusion among consumers as to the source of Defendant's goods and  
7 services.

8  
9           31. Plaintiff is informed and believes, and on that basis alleges, that  
10 Defendant, in engaging in the conduct described herein, willfully intended to trade on  
11 Plaintiff's reputation, to misappropriate the Ashford University mark and to cause injury  
12 to Plaintiff.

13  
14           32. As a direct and proximate result of Defendant's unlawful acts as set  
15 forth above, including the unauthorized reproduction, distribution and use in commerce of  
16 a name and domain names that are confusingly similar to the Ashford University  
17 trademark, Plaintiff has suffered and will continue to suffer injury to their business,  
18 goodwill, and property in an amount not presently known.

19  
20           33. Plaintiff has no adequate remedy at law. Unless Defendant is  
21 permanently enjoined from committing these unlawful acts as set forth above, including  
22 the unauthorized use of the Ashford University trademark in commerce, and the  
23 unauthorized reproduction and/or distribution of the Ashford University trademark,  
24 Plaintiff will continue to suffer irreparable harm.

25  
26           34. Plaintiff is entitled, pursuant to 35 U.S.C. § 1116, to an injunction  
27 restraining Defendant, their officers, agents and employees, and all persons acting in  
28

1 concert with Defendant, from engaging in any further such acts of unfair competition and  
2 false designation of origin in violation of 35 U.S.C. § 1125.

3  
4 **THIRD CLAIM FOR RELIEF**

5 **[Unfair Competition And False Designation Of Origin**  
6 **(California Business & Professions Code §§ 17200 And 17500)]**

7 35. Plaintiff realleges and incorporates herein by reference the allegations  
8 contained in Paragraphs 1 through 34 of this Complaint, as set forth above.

9  
10 36. Plaintiff is informed and believes, and on that basis alleges, that  
11 Defendant's unlawful acts as set forth above, including the infringement of Plaintiff's  
12 Ashford University trademark, have a substantial effect on commerce, and constitute  
13 unlawful, unfair, and fraudulent business practices and unfair, deceptive, untrue, and  
14 misleading advertising in violation of Sections 17200 and 17500, *et seq.*, of the California  
15 Business and Professions Code.

16  
17 37. Plaintiff is informed and believes, and on that basis alleges, that  
18 Defendants, in engaging in the conduct described herein, willfully intended to trade on  
19 Plaintiff's reputation, to misappropriate the Ashford University trademark and to cause  
20 injury to Plaintiff.

21  
22 38. As a direct and proximate result of Defendant's unlawful acts as set  
23 forth above, including the infringing reproduction, distribution and use of the name  
24 Ashworth University in commerce, Plaintiff has suffered and will continue to suffer injury  
25 to their business, goodwill, and property in an amount not presently known.

39. Plaintiff has no adequate remedy at law. Unless Defendant is preliminarily and permanently enjoined from committing these unlawful acts as set forth above, Plaintiff will continue to suffer irreparable harm.

40. Plaintiff is entitled, pursuant to California Business and Professions Code §§ 17203 and 17535, to an injunction restraining Defendant, its officers, agents and employees, and all persons acting in concert with Defendant, from engaging in any further such acts of unfair competition and false designation of origin in violation of the California Business and Professions Code.

## **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff BRIDGEPOINT prays for judgment against Defendant as follows:

(1) That Defendant(s) be held liable for infringement of Plaintiff's registered trademark as set forth herein in violation of the federal Lanham Act, 15 U.S.C. § 1125 *et seq.*, as alleged herein;

(2) That Defendant(s) be held liable for trademark infringement, false designation of origin, and unfair and unlawful competition and business practices in violation of the federal Lanham Act, 15 U.S.C. § 1125 *et seq.*, as alleged herein;

(3) That Defendant(s) be held liable for trademark infringement, false designation of origin, and unfair and unlawful competition and business practices in violation of the California Business and Professions Code, as alleged herein.

(4) That Defendant's unlawful conduct as alleged herein be deemed a willful violation of Plaintiff's intellectual property rights;

1 (5) For a permanent injunction preventing Defendant(s) from: (a)  
2 operating its web sites located at www.ashworthuniversity.tv, www.ashworthuniversity.edu,  
3 www.ashworthuniversity.com, www.ashworthuniversity.net, www.ashworthuniversity.us,  
4 www.ashworthuniversity.info, and www.ashworthuniversity.biz or any colorable imitations  
5 thereof, or any other confusingly similar domain name; (b) using Plaintiff's federally-  
6 registered trademark as set forth herein or any other confusingly similar marks in  
7 connection with the advertising and sale of distance learning-related goods or any other  
8 goods and/or services in commerce; (c) participating in, facilitating, materially  
9 contributing to, and/or encouraging the unauthorized use of Plaintiff's federally-registered  
10 trademark or any other confusingly similar marks in connection with the advertising and  
11 sale of distance learning-related goods or any other goods and/or services in commerce; (d)  
12 continuing to violate any rights of Plaintiff in its registered trademark in any form and/or  
13 manner; and (e) engaging in any further unfair, fraudulent, or unlawful act or practice  
14 relating to or affecting Plaintiff or its customers or prospective customers;

15  
16 (6) That Defendant(s), pursuant to 15 U.S.C. § 1116(a), be ordered to file  
17 with the Court and to serve upon Plaintiff, within thirty (30) days after service of an  
18 injunction order, a report in writing under oath setting forth in detail the manner and form  
19 in which Defendant has complied with the Court's order;

20  
21 (7) That the Court order an accounting of all gains, profits, and  
22 advantages realized by Defendant(s), or others acting in concert or participation with it,  
23 from its unlawful conduct, and that all such gains, profits, and advantages be deemed to be  
24 in constructive trust for the benefit of Plaintiff, at the sole cost and expense of  
25 Defendant(s), by means of an independent accountant;

26  
27 (8) For compensatory damages sustained by Plaintiff as a result of  
28 Defendant's wrongful acts, and such other compensatory damages, including up to three

1 times the amount of actual damages and an adequate recovery based on Defendant's  
2 profits, as the Court determines to be just pursuant to 15 U.S.C. § 1117;

3  
4 (9) That the Court declare this an exceptional case under the Lanham Act;

5  
6 (10) For an award of punitive damages for the sake of example and by way  
7 of punishing Defendant pursuant to California Civil Code § 3294;

8  
9 (11) For an award of Plaintiff's attorneys' fees and costs associated with  
10 this litigation, including expert witness costs; and

11  
12 (12) For such other and further relief as this Court deems just and proper.

13 Dated: November 20, 2007

14 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

15  
16 By



17 AMAR L. THAKUR  
18 JON E. MAKI  
19 CRYSTINA COATS

20 Attorneys for Plaintiff  
21 BRIDGEPOINT EDUCATION, INC.  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff BRIDGEPOINT EDUCATION, INC. hereby demands a trial by jury on this Complaint as to all issues that may be so tried.

Dated: November 20, 2007

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By



AMAR L. THAKUR  
JON E. MAKI  
CRYSTINA COATS

Attorneys for Plaintiff  
BRIDGEPOINT EDUCATION, INC.



**Int. Cl.: 41**

**Prior U.S. Cls.: 100, 101, and 107**

**United States Patent and Trademark Office**

**Reg. No. 3,220,625**

**Registered Mar. 20, 2007**

**SERVICE MARK  
PRINCIPAL REGISTER**

**ASHFORD UNIVERSITY**

**BRIDGEPOINT EDUCATION, INC. (DELAWARE  
CORPORATION)  
SUITE 600  
13500 EVENING CREEK DR. NORTH  
SAN DIEGO, CA 92128**

**FOR: EDUCATIONAL SERVICES, NAMELY,  
PROVIDING COURSES OF INSTRUCTION AT  
THE POST-SECONDARY AND GRADUATE LE-  
VELS; AND CONTINUING EDUCATION COURSES  
AND ADULT TRAINING SERVICES IN THE  
FIELDS OF PSYCHOLOGY AND ORGANIZATION-  
AL MANAGEMENT, IN CLASS 41 (U.S. CLS. 100, 101  
AND 107).**

**FIRST USE 3-0-2005; IN COMMERCE 3-0-2005.**

**THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.**

**NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "UNIVERSITY", APART FROM  
THE MARK AS SHOWN.**

**SN 78-552,182, FILED 1-22-2005.**

**KIMBERLY PERRY, EXAMINING ATTORNEY**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> BRIDGEPOINT EDUCATION, INC.	<b>DEFENDANTS</b> PROFESSIONAL CAREER DEVELOPMENT INSTITUTE, LLC, and DOES 1-10, inclusive
<b>(b) County of Residence of First Listed Plaintiff</b> <u>San Diego</u> (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed <u>San Diego</u> (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED. <u>SOUTHERN DISTRICT OF CALIFORNIA</u>
<b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> Amar L. Thakur, Cal. Bar No. 194025 (858) 720-8900 Jon E. Maki, Cal. Bar No. 199958 Sheppard Mullin Richter & Hampton LLP 12275 El Camino Real, Suite 200, San Diego, CA 92130	Attorneys (If Known) <div style="text-align: center; font-size: 1.5em;">                     '07 CV 2222                 </div> <div style="text-align: right; font-size: 1.2em;">                     J (BLM) DEPUTY                 </div>

<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only) <table style="width:100%;"> <tr> <td><input type="checkbox"/> 1 U.S. Government Plaintiff</td> <td><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</td> </tr> <tr> <td><input type="checkbox"/> 2 U.S. Government Defendant</td> <td><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</td> </tr> </table>	<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)	<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) <table style="width:100%;"> <tr> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> <td style="text-align: center;">PTF</td> <td style="text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State <input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1</td> <td>Citizen of Another State <input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 2</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country <input type="checkbox"/> 3</td> <td>Foreign Nation <input type="checkbox"/> 3</td> <td></td> <td></td> </tr> </table>	PTF	DEF	PTF	DEF	Citizen of This State <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1	Citizen of Another State <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 2	Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 3		
<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)																
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)																
PTF	DEF	PTF	DEF														
Citizen of This State <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State <input type="checkbox"/> 1	Citizen of Another State <input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State <input type="checkbox"/> 2														
Citizen or Subject of a Foreign Country <input type="checkbox"/> 3	Foreign Nation <input type="checkbox"/> 3																

IV. NATURE OF SUIT (Place an "X" in One Box Only)																											
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">CONTRACT</th> <th style="text-align: left;">TORTS</th> </tr> <tr> <td> <input type="checkbox"/> 110 Insurance  <input type="checkbox"/> 120 Marine  <input type="checkbox"/> 130 Miller Act  <input type="checkbox"/> 140 Negotiable Instrument  <input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment  <input type="checkbox"/> 151 Medicare Act (Excl. Veterans)  <input type="checkbox"/> 152 Recovery of Defaulted Student Loans  <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits  <input type="checkbox"/> 160 Stockholders' Suits  <input type="checkbox"/> 190 Other Contract  <input type="checkbox"/> 195 Contract Product Liability  <input type="checkbox"/> 196 Franchise                         </td> <td> <input type="checkbox"/> 310 Airplane  <input type="checkbox"/> 315 Airplane Product Liability  <input type="checkbox"/> 320 Assault, Libel &amp; Slander  <input type="checkbox"/> 330 Federal Employers' Liability  <input type="checkbox"/> 340 Marine  <input type="checkbox"/> 345 Marine Product Liability  <input type="checkbox"/> 350 Motor Vehicle  <input type="checkbox"/> 355 Motor Vehicle Product Liability  <input type="checkbox"/> 360 Other Personal Injury                         </td> </tr> <tr> <th style="text-align: left;">REAL PROPERTY</th> <th style="text-align: left;">CIVIL RIGHTS</th> </tr> <tr> <td> <input type="checkbox"/> 210 Land Condemnation  <input type="checkbox"/> 220 Foreclosure  <input type="checkbox"/> 230 Rent Lease &amp; Ejectment  <input type="checkbox"/> 240 Torts to Land  <input type="checkbox"/> 245 Tort Product Liability  <input type="checkbox"/> 290 All Other Real Property                         </td> <td> <input type="checkbox"/> 441 Voting  <input type="checkbox"/> 442 Employment  <input type="checkbox"/> 443 Housing/Accommodations  <input type="checkbox"/> 444 Welfare  <input type="checkbox"/> 445 Amer. w/Disabilities - Employment  <input type="checkbox"/> 446 Amer. w/Disabilities - Other  <input type="checkbox"/> 440 Other Civil Rights                         </td> </tr> </table>	CONTRACT	TORTS	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excl. 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Security Act                         </td> <td> <input type="checkbox"/> 861 HIA (1395ff)  <input type="checkbox"/> 862 Black Lung (923)  <input type="checkbox"/> 863 DIWC/DIWW (405(g))  <input type="checkbox"/> 864 SSID Title XVI  <input type="checkbox"/> 865 RSI (405(g))                         </td> <td></td> </tr> <tr> <th style="text-align: left;">PRISONER PETITIONS</th> <th></th> <th></th> </tr> <tr> <td> <input type="checkbox"/> 510 Motions to Vacate Sentence  <b>Habeas Corpus:</b>  <input type="checkbox"/> 530 General  <input type="checkbox"/> 535 Death Penalty  <input type="checkbox"/> 540 Mandamus &amp; Other  <input type="checkbox"/> 550 Civil Rights  <input type="checkbox"/> 555 Prison Condition                         </td> <td></td> <td></td> </tr> </table>	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	LABOR	SOCIAL SECURITY		<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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<b>V. ORIGIN</b> (Place an "X" in One Box Only) <table style="width:100%;"> <tr> <td><input checked="" type="checkbox"/> 1 Original Proceeding</td> <td><input type="checkbox"/> 2 Removed from State Court</td> <td><input type="checkbox"/> 3 Remanded from Appellate Court</td> <td><input type="checkbox"/> 4 Reinstated or Reopened</td> <td><input type="checkbox"/> 5 Transferred from another district (specify)</td> <td><input type="checkbox"/> 6 Multidistrict Litigation</td> <td><input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment</td> </tr> </table>	<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	
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<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>15 U.S.C. 1114</u> Brief description of cause: <u>Federal Trademark Infringement, Unfair Competition, and False Designation of Origin</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$	CHECK YES only if demanded in complaint: JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE	SIGNATURE OF ATTORNEY OF RECORD	DOCKET NUMBER
November 20, 2007		_____
FOR OFFICE USE ONLY RECEIPT # <u>144724</u> AMOUNT <u>\$350</u> APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____		

ORIGINAL

**UNITED STATES  
DISTRICT COURT**  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION

**# 144724 - SH**

**November 20, 2007  
16:10:28**

**Civ Fil Non-Pris  
07-02222**

Judge.: NAPOLEON A JONES, JR

Amount.: \$350.00 CK

Check#.: BC 6252

**Total-> \$350.00**

**FROM: BRIDGEPOINT EDUCATION INC V.  
PROFESSIONAL CAREER DEV. INSTI**